SASKATCHEWAN

FOIP FOLIO

March 2008

NOW YOU SEE IT, NOW YOU DON'T

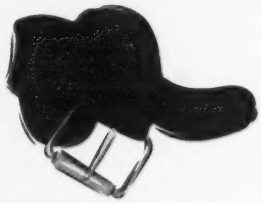
On March 10, 2008, the Commissioner released Report F-2008--001 detailing his review of the decisions of the Department of Corrections and Public Safety (CPS), now known as the Ministry of Corrections, Public Safety and Policing, to refuse access to two applicants of certain personal information and personal health information held by CPS. Both applicants were inmates at one time in correctional centres in Saskatoon or Regina.

The Commissioner found that CPS failed to meet its duty to assist the applicants as it did not conduct adequate searches to find some of the records requested, and in one case, missed the response deadline altogether. The Commissioner expressed concern about the unexplained disappearance of certain records in the possession of CPS. The Commissioner also found deficiencies in the CPS responses to both applicants. The Commissioner found that CPS had a proper basis to withhold some documents from one of the applicants as it obtained the information in question in confidence from Correctional Services Canada [section 13(1)(a) of *The Freedom of Information and Protection of Privacy Act* (FOIP)]. In addition, the Ministry properly denied access to one applicant to certain third party personal information pursuant to section 29(1) of FOIP.

In terms of conducting an adequate search, a helpful resource referenced in the Report [64] is British Columbia Information and Privacy Commissioner's Office, *Tips for DMIPS and Freedom of Information and Privacy Coordinators: Conducting An Adequate Search Investigation under the Freedom of Information and Protection of Privacy Act.* (visit http://www.oipcbc.org/advice/GUID-Complaint_Investigation.pdf)

A copy of the Report is available on our website, www.oipc.sk.ca under the *Reports* tab.

OIPC BELT TIGHTENING



Subscribers to the FOIP FOLIO will be familiar with our Business Plan revisions to address both:

(a) an increased demand for information and advice; and
(b) a substantial backlog of formal reviews of access decisions and breach of privacy investigations.

The Business Plan for 2007-2009 is accessible at www.oipc.sk.ca under the *Annual Reports* tab.

OIPC BELT TIGHTENING CONT'D

We had approximately 165 outstanding reviews and investigations as of December 31, 2007, some started as long as three years ago. Our goal was to reduce the time to complete those reviews and investigations to approximately five months from the date that the issues are defined and the review work commences. The Board of Internal Economy (a Standing Committee of the Legislative Assembly) however, did not approve our request for funding in the 2008-2009 fiscal year for the hiring of two Research/Intake Officers to assist our Portfolio Officers as well as an Administrative Assistant.

Those three new positions would have allowed us to not only deal with our backlog more quickly but also to keep pace with significant increases in demands for service from the Office of the Information and Privacy Commissioner (OIPC). We respect the decision of the Board, but will need to make consequential adjustments that will directly impact the level of service to Saskatchewan residents and public bodies alike. We will be reducing our travel outside of Regina and scaling back even further the number of educational presentations we undertake. It will also take us longer to complete 'advice and commentary' assignments with respect to proposed legislation or programs. It is likely that new requests for review and privacy complaints may have to wait while we continue to concentrate on our backlog. Summary advice calls (more than 2400 since April 1, 2007) will not likely all be responded to within the service standards detailed in our Business Plan.

The *Hansard* verbatim of our presentation to the Board is not available online but can be accessed through the office of the Speaker by calling (306) 787-2282.

ABANDONED MEDICAL RECORDS IN YORKTON

On March 17, 2008, a Portfolio Officer from our office travelled to Yorkton after our office received a tip that abandoned medical records were found in empty office space. Our Portfolio Officer seized five large boxes of what appear to be physician records on several hundred patients in the Yorkton region. The records are now safe in the interim custody of our office.

We will undertake an investigation under *The Health Information Protection Act* (HIPA) to determine the circumstances of the abandonment of these records. This investigation will determine which trustee last had custody of these records. Physicians in Saskatchewan are health information trustees and have statutory duties to ensure that there are reasonable physical, technical and administrative safeguards in place for all personal health information in their custody or control. These statutory duties are reinforced by an offence provision in HIPA and a penalty provision of a maximum fine of $50,000 for an individual and $500,000 for an organization.

ABANDONED MEDICAL RECORDS IN YORKTON CONT'D

The Commissioner will report to the public once the source of the abandoned records has been determined and arrangements have been made for permanent secure storage of these records. Patients in Saskatchewan have a statutory right to apply in writing for access to their personal health information. In the event that any individual requires access they are encouraged to await further information from the OIPC as the investigation proceeds.

RADIO FREQUENCY IDENTIFICATION (RFID) IN THE WORKPLACE

The Privacy Commissioner of Canada, **Jennifer Stoddart,** has just released a consultation paper on RFID in the workplace together with recommendations for good practices. This paper includes a brief overview of RFID technology and related privacy and security risks. It discusses ways in which the data contained on an RFID tag can become personal information under the *Personal Information Protection and Electronic Documents Act* (PIPEDA) and the federal *Privacy Act*. This is significant since much of Part IV of both FOIP and *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) is modelled on the older *Privacy Act*. The paper outlines steps organizations need to take before rolling out RFID technology in their workplaces. The paper is available at http://www.privcom.gc.ca/information/pub/rfid_e.pdf.

RFID SKIMMING

In related news, Bill SB 31.1 recently passed by the California Senate outlaws skimming. Skimming refers to the covert reading of personal information embedded in RFID enabled ID cards. The sponsor is State **Senator Joe Simitian**. This is a significant issue since the signal from the antennae on many RFID chips can be read from some distance away. As a result, your ID card information can be read and stolen without you even being aware of the theft. You can read the news report at www.govtech.com/gt/print_article.php?id=260670.

RADIO FREQUENCY IDENTIFICATION IN HEALTHCARE

Ontario Information and Privacy Commissioner, **Dr. Ann Cavoukian**, earlier this year released, in collaboration with Hewlett Packard (HP) Canada, a publication entitled, *RFID and Privacy: Guidance for Health-Care Providers.* This is available at http://tinyurl.com/26dm35.

IMPROVED SECURITY FOR SASKATCHEWAN BIRTH CERTIFICATES

Saskatchewan Health Minister, **Honourable Don McMorris**, announced on March 6, 2008 that new birth certificates will now include a number of security features to minimize the risk that birth certificates will be used fraudulently for identity theft purposes. For more information go to the Saskatchewan Health website at www.health.gov.sk.ca.

MARCH IS FRAUD AWARENESS MONTH

Congratulations to the RCMP, Regina and Saskatoon Police Services and many Saskatchewan businesses for an effective program of public education throughout the month of March. This included sessions by the Regina office of the "F" Division Commercial Crime Section in the communities of Southey, Redvers, Shaunavon, Swift Current, Weyburn and Regina.

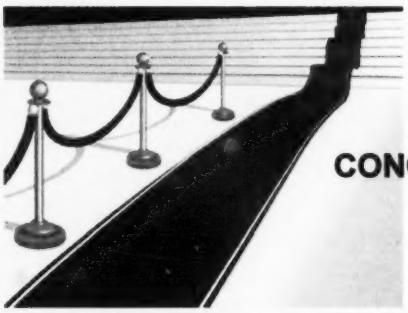
Our office has been pleased to collaborate with these organizations to promote public awareness about identity theft and other frauds that involve the use of modern technology. We have given presentations on identity theft in both Regina and Saskatoon this month.

You will hopefully have noticed a number of website addresses displayed on the *What's New* page on our website: www.oipc.sk.ca with respect to fraud awareness month. These websites provide resources on identity theft including practical tips on avoiding identity theft and information on what to do if you are a victim:

- Competition Bureau of Canada's Anti-Fraud Campaign
- Equifax - Request a Credit Report
- Fraud Prevention
- Phonebusters Identity Theft Statistics
- Privacy Commissioner of Canada - Identity Theft
- Public Interest Advocacy Centre
- Public Safety Canada
- Saskatchewan Justice and Attorney General
- TransUnion Canada - Request a Credit Report

MARCH IS FRAUD AWARENESS MONTH CONT'D

Speaking of identity theft, the Ontario government has recently given consumers the ability to place an alert on their personal credit file. Citizens in that jurisdiction can direct a credit reporting agency to place a credit alert on their files for a nominal charge. Ontario lenders will be required to take action when they are advised that a credit alert is in place. They must verify the identity of the person before proceeding with the transaction by anyone presenting that name. For more information visit www.gov.on.ca/mgs/en/News/Print/180547.html.



CONGRATULATIONS TO CAM MOORE!!

Our newest Portfolio Officer, **Cam Moore**, has been nominated for a special award from the Canadian Professional Police Association (CPPA) for his work on a missing person case as an officer with the Moose Jaw Police Service. The award will be presented later in 2008 but reflects excellence in investigation work. In this case, Cam's nomination relates to a 23 year-old cold case that involved a woman from the United States who disappeared. All of us at the OIPC are proud of Cam's recognition by the CPPA!

A VERY POOR PRIVACY PRACTICE TO BE AVOIDED

From time to time, our office learns of government institutions that are demonstrating or training staff with respect to different computer applications. In the course of the teaching or demonstration, these organizations display the personal information of real people, either government staff or members of the public. This is a very poor practice. In our view, this is almost always an unwarranted and egregious breach of the privacy of those individuals and is not authorized by the use or disclosure provisions of FOIP, LA FOIP or HIPA. Unless you have the express consent of the individuals attached to the personal information or personal health information being disclosed, you will want to ensure that your organization uses fictitious information or completely de-identified information for training purposes.

VIDEO SURVEILLANCE AND TORONTO TRANSIT COMMISSION

Dr. Ann Cavoukian, Ontario's Information and Privacy Commissioner, has released an investigative report in response to a complaint about plans by the Toronto Transit Commission (TTC) to expand closed circuit television (CCTV) surveillance. This report provides a useful analysis of the literature on CCTV and its effectiveness. It also focuses on the value of privacy enhancing technologies that would ensure privacy objectives can be met. The full report is available at www.ipc.on.ca/images/Findings/mc07-68-ttc.pdf.

We recommend that all Saskatchewan municipalities that provide public transit, as well as the Saskatchewan Transportation Company, carefully review the Ontario report and its comprehensive recommendations for good system design to achieve privacy requirements.

MORE ON VIDEO SURVEILLANCE

The federal Privacy Commissioner (**Jennifer Stoddart**) and her counterparts in Alberta (**Frank Work**) and British Columbia (**David Loukidelis**) have just released new guidelines for video surveillance by private-sector organizations. These guidelines outline the specific steps that businesses must take to minimize the impact on people's privacy. In the accompanying news release, the Commissioners are quoted as follows: "*...it is disturbing to hear stories about video surveillance operators deliberately pointing cameras to ogle women, as well as surveillance images of people caught in unflattering situations finding their way onto video sharing sites like YouTube and Vimeo.*" You can read the complete guidelines for private-sector organizations at www.privcom.gc.ca. In Saskatchewan, our office has published guidelines for video surveillance by public sector organizations. These are available at www.oipc.sk.ca under the *Resources* tab.

FUTURE EVENTS

March 31, 2008 - Riley Information Services: Privacy, Security and Technology -- Affirming Our Rights, *Minto Suites Hotel, Vanier Room, 185 Lyon Street North, Ottawa, Ontario (visit www.rileyis.com/seminars/)*

April 15-16, 2008 - Waterloo Institute for Health Informatics Research: eHealth Risk-Opportunity Report Card Workshop, *Waterloo, Ontario (visit http://hi.uwaterloo.ca/workshops)*

April 16-17, 2008 - Waterloo Institute for Health Informatics Research: Health Privacy Professional Workshop, *Waterloo, Ontario (visit http://hi.uwaterloo.ca/workshops)*

May 4-7, 2008 - eHealth: Extending the Reach, *Vancouver, British Columbia (visit www.e-healthconference.com)*

May 29-30, 2008 - Insight: Online Security Threats - Public and Private Sector strategies, *The Metropolitan Hotel, Vancouver, British Columbia (visit www.insightinfo.com)*

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